

Mary McNamara, SBN 147131
SWANSON & McNAMARA LLP
300 Montgomery Street, Suite 1100
San Francisco, California 94104
Telephone: (415) 477-3800
Facsimile: (415) 477-9010

Attorney for DONALD DANIELS

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DONALD DANIELS, et al.

Defendants.

Case No. CR 09-0862 MHP

STIPULATION AND ~~PROPOSED~~
ORDER VACATING THE MARCH 22,
2010 STATUS CONFERENCE DATE
AND SETTING APRIL 26, 2010 AS A
MOTIONS HEARING DATE

Defendants Donald Daniels, by and through his counsel, Mary McNamara, Martin William Washburn, by and through his counsel Nanci Clarence, Sergei Shurkin, by and through his counsel, William Portanova, Tapani Koivunen, by and through his counsel, Harry Singer, and Irina Rebegeneau, by and through her counsel, Anthony Brass, on the one hand ("Defendants") and the United States, by and through its counsel, Assistant United States Attorney Christine Wong, hereby request vacation of the March 22, 2010 status date in favor of the setting of a motions hearing date of April 26, 2010. Counsel requests this continuance on the following grounds:

1. The government has thus far produced approximately 35,000 pages of documents, comprising a compilation of e-mail correspondence, financial documents, audit reports, interview memoranda and documents from the alleged victim agency, the Overseas Private Investment Corporation. Defense counsel have been diligent in their review of this material, but

1 the volume is such that review is only partially completed.

2 2. Although discovery review is ongoing, defense counsel have determined that they
3 have a basis for two legal challenges to the superseding indictment. The first is a motion to
4 dismiss counts ten and eleven of the indictment (conspiracy to violate 18 U.S.C. § 894 and a
5 substantive violation of 18 U.S.C. § 894 – conspiracy to and use of extortionate means to collect
6 extensions of credit, respectively) on the grounds that these charges constitute an invalid
7 extraterritorial application of the extortion statute. The second is an alternative motion to sever
8 these extortion counts from the remaining wire fraud and money laundering counts in the
9 indictment. Defense counsel will file these motions by March 29, 2010 and suggest the
10 following further briefing schedule on these two motions:

11 Opposition by the United States April 12, 2010

12 Reply by the defense April 19, 2010

13 3. The defense also is in the process of meeting and conferring with the United
14 States with respect to additional discovery concerning two pre-indictment statute of limitations
15 extensions obtained by the United States in this case. It is anticipated that such discovery will be
16 provided within the next week or so. The discovery on this issue may provide a basis for a third
17 defense motion to dismiss on statute of limitations grounds.

18 4. Given the pending request for additional targeted discovery sought by the defense
19 on the statute of limitations issue, and the work that will be required to review and analyze the
20 remainder of the original 35,000 page production, the defense seeks permission of the Court to
21 stage the motions practice in this case such that the first wave of motions (to dismiss the
22 extortion counts or alternatively, to sever them for trial) be heard on April 26, 2010 with a
23 successive wave to be heard at a time and under a briefing schedule to be set by the Court at the
24 April 26, 2010 motions hearing date.

25 5. The parties agree that time should be excluded from March 22, 2010 to April 26,
26 2010 pursuant to 18 U.S.C. § 3161(h)(8)(A) and (B)(iv) on the basis that the ends of justice
27 served by excluding time as above-stated outweigh the best interest of the public and the
28 defendants in a speedy trial, because the defense requires the requested time in order to prepare

its motions and to further review the voluminous discovery in this case, as well as to determine if further motions may be brought in this case, and failure to grant the requested continuance and time exclusion would unreasonably deny the defendants the reasonable time necessary for effective preparation in this case.

IT IS SO STIPULATED.

Dated: March 18, 2010

_____/s/_____
MARY McNAMARA
Attorney for DONALD DANIELS

Dated: March 18, 2010

_____/s/_____
NANCI CLARENCE
Attorney for WILLIAM WASHBURN

Dated: March 18, 2010

_____/s/_____
WILLIAM PORTANOVA
Attorney for SERGEI SHURKIN

Dated: March 18, 2010

_____/s/_____
HARRY SINGER
Attorney for TAPANI KOIVUNEN

Dated: March 18, 2010

_____/s/_____
ANTHONY BRASS
Attorney for IRINA REBEGENEAU

Dated: March 18, 2010

_____/s/_____
CHRISTINE WONG
Assistant United States Attorney

PURSUANT TO STIPULATION, IT IS ORDERED AS FOLLOWS:

Dated: 3/18/2010

